

Effective 5/13/2014

Chapter 30a
Peace Officer Merit System in Counties of the First Class Act

Part 1
General Provisions

17-30a-101 Title.

- (1) This chapter is known as "Peace Officer Merit System in Counties of the First Class Act."
- (2) This part is known as "General Provisions."

Enacted by Chapter 366, 2014 General Session

17-30a-102 Definitions.

- (1) "Appointing authority" means the county sheriff or the chief executive officer of a police interlocal entity.
- (2) "Commission" means the merit system commission consisting of three persons appointed in accordance with Section 17-30a-202.
- (3) "Department" means a county sheriff's office or a police interlocal entity.
- (4) "Legislative body" means the county legislative body or the governing body of the police interlocal entity.
- (5) "Merit system officer" means a peace officer who has merit status as defined in this chapter.
- (6) "Peace officer" means a paid deputy sheriff or law enforcement officer, other than a chief deputy or other exempt appointed officer designated by the appointing authority, who is in the continuous employ of the appointing authority.
- (7) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, created:
 - (a) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and
 - (b) to provide law enforcement service to an area that includes the unincorporated part of the county.

Enacted by Chapter 366, 2014 General Session

17-30a-103 Application.

This chapter applies to a county of the first class or a police interlocal entity in which a county of the first class is a party to an interlocal agreement to provide law enforcement service.

Enacted by Chapter 366, 2014 General Session

17-30a-104 Subordinate officers appointed, reappointed -- Officers serving on effective date considered qualified.

- (1) The appointing authority of a county or police interlocal entity subject to this chapter that regularly employs one or more peace officers shall:
 - (a) appoint a peace officer with the advice and consent of the county legislative body or police interlocal entity governing body, subject to the rules and regulations of the commission;
 - (b) appoint each subordinate peace officer;
 - (c) fill a vacancy in the department; and

- (d) further promote, transfer, reassign, reappoint, demote, suspend, or remove a peace officer in accordance with the provisions of this chapter.
- (2) The commission shall adopt rules governing the appointment of peace officers through reappointment of a former employee who separated in good standing, within one year after separation.
- (3) A peace officer appointed before May 13, 2014, is considered to have been appointed to and hold the officer's position and classification pursuant to the provisions of this chapter.

Enacted by Chapter 366, 2014 General Session

Part 2

Merit System Commission Powers and Duties

17-30a-201 Title.

This part is known as "Merit System Commission Powers and Duties."

Enacted by Chapter 366, 2014 General Session

17-30a-202 Establishment of merit commission -- Appointment, qualifications, and compensation of members.

- (1)
 - (a) Except as provided in Subsection (1)(b), a county subject to this chapter shall establish a merit system commission consisting of three appointed members:
 - (i) two members appointed by the legislative body of the county; and
 - (ii) one member appointed by the governing body of a police interlocal entity.
 - (b) If there is no police interlocal entity within the county, the county legislative body shall appoint all three members of a commission described in Subsection (1)(a).
 - (c) No more than two members of the commission may be affiliated with or members of the same political party.
 - (d)
 - (i) Of the original appointees described in Subsection (1)(a) or (b), one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment, and one each for terms ending two and four years thereafter.
 - (ii) For a term subsequent to a term described in Subsection (1)(d), a commission member shall hold a term of six years.
 - (e) If an appointed position described in Subsection (1)(a) or (b) is vacated for a cause other than expiration of the member's term, the position is filled by appointment for the unexpired portion of the term only.
- (2) A member of the commission:
 - (a) shall be a resident of the state;
 - (b) for at least five years preceding the date of appointment a resident of:
 - (i) the county; or
 - (ii) if applicable, the area served by the police interlocal entity from which appointed; and
 - (c) may not hold another office or employment with the county or, if applicable, in a municipality served by the police interlocal entity for which the member is appointed.

- (3) The county legislative body or interlocal entity governing body may compensate a member for service on the commission and reimburse the member for necessary expenses incurred in the performance of the member's duties.

Enacted by Chapter 366, 2014 General Session

17-30a-203 General duty of commission.

- (1) The commission:
 - (a) is responsible for carrying out the provisions of this chapter; and
 - (b) shall make necessary rules and regulations to govern the merit system in accordance with this chapter, including:
 - (i) adopting merit rules regarding:
 - (A) appointments and registers;
 - (B) examinations;
 - (C) promotions;
 - (D) reassignments;
 - (E) reappointments;
 - (F) disciplinary grievance procedures;
 - (G) administrative reviews;
 - (H) recognition of the equivalency of another merit system for the purpose of appointing a peace officer from another agency; and
 - (I) reductions in force;
 - (ii) adopting a rule regarding the preparation of a job classification plan; and
 - (iii) adopting rules necessary for the efficient management of the merit system not specifically enumerated above and not inconsistent with this chapter or applicable law.
- (2) Upon the request of the appointing authority and after conducting a public hearing, the commission may temporarily suspend a rule if the suspension is necessary for the proper enforcement of this chapter.

Enacted by Chapter 366, 2014 General Session

17-30a-204 Organization of commission -- Support -- Offices.

- (1) The members of the commission shall select one member as chair.
- (2) The commission shall adopt rules concerning its internal organization and procedures.
- (3)
 - (a) The county sheriff or the chief executive of the police interlocal entity:
 - (i) shall assign human resources staff sufficient to perform the commission's support duties; and
 - (ii) may assign other staff to the commission with the consent of the commission.
 - (b) The county or police interlocal entity shall provide suitable accommodations, supplies, and equipment as needed to enable the commission to attend to its business.
 - (c) The county sheriff or chief executive of the police interlocal entity may, in accordance with the contracting process established by the county or police interlocal entity, contract support services to third parties.

Enacted by Chapter 366, 2014 General Session

17-30a-205 Comprehensive job classification plan.

- (1) The commission shall formulate a comprehensive job classification plan covering all merit system officers employed by the sheriff or by the police interlocal entity.
- (2) The plan shall:
 - (a) place all positions requiring substantially the same duties and qualifications in the same classification;
 - (b) include minimum physical and educational qualifications of the applicants for each position; and
 - (c) provide standards for promotion.
- (3) In the event a new position is created and approved, the commission shall classify the position in the classification plan.

Enacted by Chapter 366, 2014 General Session

17-30a-206 Oaths and subpoenas -- Witnesses.

- (1)
 - (a) A member of the commission, in performance of commission duties, may administer oaths and subpoena witnesses and documents.
 - (b) If a person refuses to or fails to obey a subpoena issued by a commissioner, the district court may, upon application by a commissioner, compel obedience.
- (2)
 - (a) A witness in a proceeding before the commission is subject to all the rights, privileges, duties, and penalties of witnesses in courts of record.
 - (b) The commission shall pay a witness fee equivalent to those paid for a court of record.

Enacted by Chapter 366, 2014 General Session

17-30a-207 Duty of commission to provide for unspecified activities.

The commission may provide by rule for the operation and functioning of an activity within the purpose and spirit of this chapter if the activity is necessary and proper and not otherwise prohibited by law.

Enacted by Chapter 366, 2014 General Session

Part 3

Merit Officer Conditions of Employment

17-30a-301 Title.

This part is known as "Merit Officer Conditions of Employment."

Enacted by Chapter 366, 2014 General Session

17-30a-302 Examinations -- How prepared, conducted, and graded -- Notice of examination.

- (1)
 - (a) If necessary, the commission shall give a competitive examination to determine the qualification of an applicant for a position as a merit system officer.
 - (b) The commission shall ensure that an examination:

- (i) is practical in character; and
 - (ii) relates to matters that fairly test the mental and physical ability and knowledge of an applicant to discharge the duties of the position.
- (c)
 - (i) Except as provided in Subsection (1)(c)(ii), the commission shall direct the preparation, administration, and grading of the examination.
 - (ii) The commission may direct an impartial special examiner to prepare, administer, and grade the examination on behalf of the commission.
- (2)
 - (a) The commission shall publish notice of an examination internally and to the public.
 - (b)
 - (i) The commission shall design the notice described in Subsection (2)(a) to encourage an applicant to participate in competitive appointments.
 - (ii) The notice shall set forth minimum qualifications, pay scale, physical and educational requirements, and passing grades.
 - (c) The commission or the commission's designee shall promptly notify a person of the person's final grade.

Enacted by Chapter 366, 2014 General Session

17-30a-303 Disqualification of applicant for examination -- Appeal to commission.

- (1) In accordance with this section and rules adopted by the commission, an applicant may be disqualified if the applicant:
 - (a) does not meet minimum qualifications;
 - (b) has been convicted of a criminal offense inimical to the public service or involving moral turpitude;
 - (c) has practiced or attempted deception or fraud in the application or examination process or in securing eligibility for appointment; or
 - (d) is not a citizen of the United States.
- (2) If an applicant is rejected, the applicant shall be promptly notified.
- (3) At any time prior to the date of examination, an applicant may correct a defect in the applicant's application.
- (4) An applicant may file a written appeal regarding the application process with the commission at any time before the date of the exam.

Enacted by Chapter 366, 2014 General Session

17-30a-304 Preservation and inspection of examination papers.

- (1)
 - (a) Examination papers and related documents are the property of the commission and the commission shall preserve them until the expiration of the eligible register for which an examination is given.
 - (b) Preservation of examination papers and related documents after the time period described in Subsection (1)(a) is subject to a retention schedule adopted by the commission.
- (2)
 - (a) Except as provided in Subsection (2)(b), examination papers and related documents are not open to public inspection without a court order.

- (b) An applicant may inspect the applicant's own papers at any time within 30 days after the commission sends notice of the applicant's grade.
- (c) The appointing authority may inspect the papers of any eligible applicant certified for appointment.

Enacted by Chapter 366, 2014 General Session

17-30a-305 Preparation and expiration of eligible appointment register.

- (1) Upon completion of an examination, the commission shall prepare and adopt an eligible appointment register containing the names of applicants receiving a passing grade ranked in the order of grades earned, beginning with the highest.
- (2)
 - (a) An eligible appointment register shall expire not later than two years after the date of the examination unless the commission, for good reason, extends the time not to exceed one additional year.
 - (b) If the commission adopts a new eligible appointment register, a previous appointment register for the same class or position is cancelled.

Enacted by Chapter 366, 2014 General Session

17-30a-306 Appointments from eligible appointment register -- Failure to accept appointment.

- (1) If the appointment of a peace officer is an appointment based on an examination, the appointing authority shall request that the commission certify eligible applicants for each position.
- (2)
 - (a) The commission shall certify, to the appointing authority, a number of names equal to three times the number of allocations being filled.
 - (b) The names of the applicants shall be ranked in order of examination score, beginning with the name of the applicant standing highest on the eligible appointment register.
- (3) The appointing authority shall select a person described in Subsection (2)(b) and appoint one person to each open position.
- (4) If a certified applicant fails to accept a proffered appointment, the applicant:
 - (a) may request in writing that the applicant be able to retain the applicant's place on the eligible appointment register; and
 - (b) shall provide reasons sufficient, in the judgment of the commission, to justify the applicant's failure to accept.

Enacted by Chapter 366, 2014 General Session

17-30a-307 Probationary period of appointment.

- (1) A peace officer appointed under Section 17-30a-306 shall serve a probationary period of 12 consecutive months, during which time the officer may be discharged at the sole discretion of the appointing authority.
- (2)
 - (a) At the request of the appointing authority and with the approval of the commission, the probationary period may be extended beyond 12 months for an officer who has not yet

satisfactorily completed an approved peace officer training program and received a certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.

- (b) At the request of the appointing authority and with the approval of the commission, the probationary period of an officer may be extended beyond 12 months for good cause shown.
- (c) Service under a temporary or part-time appointment is not considered a part of the probationary period.
- (3) If a peace officer is retained in a position after the expiration of the probationary period, the officer's retention constitutes appointment to merit status.
- (4) A person removed from employment during the probationary period may not be placed on the eligible register again without having passed another regular examination.
- (5) The commission may adopt rules governing probationary periods for other appointments, including the appointing or transfer of a peace officer from another jurisdiction.

Enacted by Chapter 366, 2014 General Session

17-30a-308 Vacancies -- Positions requiring special qualifications -- Competition suspended -- Promotion -- Promotional register.

- (1) In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional, or expert character, and upon satisfactory evidence that competition is impracticable and the position can best be filled by the selection of some designated person of recognized attainments, the commission may, after a public hearing and by unanimous vote, suspend competition regarding that position.
- (2) The commission shall report a suspension under Subsection (1) in the commission minutes, together with the reason for suspension.
- (3) With the exception of an appointment made in accordance with a commission rule adopted under Subsection 17-30a-203(1)(b)(i)(H), a department shall fill a supervisor vacancy in the merit system classification by promotion insofar as possible.
- (4)
 - (a) A department shall make a promotion only after an open competitive examination, admission to which shall be limited to merit system officers.
 - (b) An examination process described in Subsection (4)(a) shall include consideration of the seniority and competence of the peace officer to perform the duties required in the position for which application is made.
 - (c) The seniority element of the examination may not exceed 40% of the entire examination score.
- (5)
 - (a) After a promotional examination, the commission shall prepare a promotional register that shall take precedence over any previously existing register.
 - (b) The certified promotional register shall consist of three names for the initial vacancy and one more name for each additional vacancy, ranked in the order of the examination score, beginning with the highest scoring applicant.

Enacted by Chapter 366, 2014 General Session

17-30a-309 Transfer and reassignment.

- (1) A merit system officer may be transferred, without examination, from one position to a similar position in the same class and grade within the department.

- (2) A merit system officer may be voluntarily reassigned, including to another class and grade, in accordance with rules adopted by the commission.

Enacted by Chapter 366, 2014 General Session

17-30a-310 Temporary and part-time appointment.

- (1) A department may appoint an employee to a temporary appointment for a period not exceeding 120 days within any 12 month period.
- (2) A temporary employee is not a merit system officer and may be appointed without examination.
- (3) A department may appoint an employee to a part-time appointment for a period not to exceed 29 hours per week.
- (4) A part-time employee is not a merit system officer and may be appointed without examination.

Enacted by Chapter 366, 2014 General Session

17-30a-311 Temporary layoffs -- Reappointment register.

- (1) Subject to Subsections (2) and (3), and if necessary, because of lack of funds or work, a department may temporarily lay off a merit system officer.
- (2) A department that lays off a merit system officer under Subsection (1) shall lay off the officer according to the seniority of the officers of the class of positions affected, following the process prescribed by commission rule.
- (3) A department shall lay off a person serving under temporary or part-time appointment before a merit system officer.
- (4)
 - (a) If a merit system officer is laid off, the department shall place the officer on a reappointment register to be reappointed in the inverse order in which the officer is laid off.
 - (b) The register described in Subsection (4)(a) takes precedence over all eligible reappointment registers.

Enacted by Chapter 366, 2014 General Session

17-30a-312 Reappointment after temporary leave.

- (1)
 - (a) Consistent with rules adopted by the commission and within the appointing authority's discretion, a merit system officer may be granted a temporary leave of absence outside the department.
 - (b) Leave granted under Subsection (1)(a) is without pay and for a period not to exceed one year.
 - (c) In accordance with applicable law or ordinance, the appointing authority may reappoint the officer without examination at the end of the leave.
- (2)
 - (a) In the event a merit system officer is elected sheriff or is appointed to any merit-exempt position in the department, the officer's merit system status shall automatically be suspended for the period of time the officer remains sheriff or in a merit-exempt appointment.
 - (b) At the end of the period of election to sheriff or suspension of merit status under Subsection (2)(a), the officer shall be returned to the officer's former position as a merit system officer without examination.
- (3) The appointing authority shall authorize any leave required by federal law.

Enacted by Chapter 366, 2014 General Session

17-30a-313 Vacation, sick leave, and other benefits.

For merit system officers, provisions regarding vacation, sick, other leave, or any other employment condition or benefit not covered by this chapter shall be established by:

- (1) applicable law;
- (2) county ordinance or regulation; or
- (3) police interlocal entity rule or regulation.

Enacted by Chapter 366, 2014 General Session

17-30a-314 Prohibitions against political activities -- Penalties.

- (1)
 - (a) An officer, employee, or member of a governing body of a county or a police interlocal entity, whether elected or appointed, may not directly or indirectly coerce, command, or advise a merit system officer to pay, lend, or contribute part of the officer's salary or compensation or anything else of value to a party, committee, organization, agency, or person for political purpose.
 - (b) A county or police interlocal entity officer, employee, or member of a governing body, whether elected or appointed, may not make or attempt to make a merit system officer's personnel status dependent upon the officer's support or lack of support for a political party, committee, organization, agency, or person engaged in a political activity.
- (2) Subsection (1) does not apply to political speeches or use of mass communications media for political purposes by a person where a merit system officer is present, unless the purpose and intent of the speaker is to violate this section with direct respect to those merit system officers.
- (3)
 - (a) Except as provided in Subsection (3)(b), a merit system officer may not engage in a political activity or solicit political contributions from merit system officers during the hours of employment, or use employer resources at any time for political purposes.
 - (b) Subsection (3)(a) does not preclude a voluntary contribution by a merit system officer to the party or candidate of the officer's choice.

Enacted by Chapter 366, 2014 General Session

Part 4

Disciplinary Actions and Appeals

17-30a-401 Title.

This part is known as "Disciplinary Actions and Appeals."

Enacted by Chapter 366, 2014 General Session

17-30a-402 Disciplinary charges -- Grounds -- Process.

- (1) An appointing authority may demote, suspend, discharge, or reduce a merit system officer's pay for:
 - (a) neglect of duty;

- (b) disobedience of a reasonable order;
 - (c) misconduct;
 - (d) inefficiency or inability to satisfactorily perform assigned duties; or
 - (e) an act inimical to public service.
- (2) A department may not suspend a merit system officer for more than 176 work hours at one time or for more than 352 work hours in one year.
- (3) The appointing authority shall order the demotion, reduction in pay, suspension, or discharge of a merit system officer.

Enacted by Chapter 366, 2014 General Session

17-30a-403 Disciplinary charges -- Appeal to commission -- Hearing -- Findings.

- (1) The appointing authority:
- (a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or law; and
 - (b) shall serve the merit system officer to be disciplined with a copy of the written charges.
- (2)
- (a) A disciplined merit system officer may file an appeal of the disciplinary charges with the department, which shall conduct the appeal internally.
 - (b) The department shall conduct an appeal in accordance with rules or policies adopted by the appointing authority.
- (3) If the disciplinary charges are sustained on internal appeal, the merit system officer may appeal to the commission in accordance with the provisions of this section and commission rule.
- (4)
- (a) A merit system officer disciplined in accordance with Subsection (1) may, within 10 calendar days after the internal department appeal decision described in Subsection (2), make an appeal in writing to the commission.
 - (b) If the merit system officer fails to make an internal appeal of the disciplinary action, the officer may not appeal to the commission.
- (5) The commission may hear appeals regarding demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause provided in Section 17-30a-402.
- (6) In the absence of an appeal, a copy of the charges under Subsection (1) may not be made public without the consent of the officer charged.
- (7)
- (a) The commission shall:
 - (i) fix a time and place for a hearing on the appeal; and
 - (ii) give notice of the hearing to the parties.
 - (b)
 - (i) Except as provided in Subsection (7)(b)(ii), the commission shall hold a hearing under this Subsection (7) no less than 10 and no more than 90 days after an appeal is filed.
 - (ii) The commission may hold a hearing more than 90 days after an appeal is filed if:
 - (A) the parties agree; or
 - (B) the commission finds that the delay is for good cause.
- (8)
- (a) The commission shall hold the hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act.
 - (b) Notwithstanding Subsection (8)(a), if the commission proposes to and is authorized to close the hearing to the public in accordance with Title 52, Chapter 4, Open and Public Meetings

Act, the commission shall open the meeting to the public if the aggrieved officer requests that the commission open the hearing.

- (9) The parties may be represented by counsel at the hearing.
- (10) The commission, on its own motion or at the request of the appointing authority, may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other good cause shown.
- (11) In resolving an appeal, the commission may sustain, modify, or vacate a decision of the appointing authority.
- (12) After the hearing, the commission shall publish a written decision, including findings of fact and conclusions of law, and shall notify each party.

Enacted by Chapter 366, 2014 General Session

17-30a-404 Appeal to Court of Appeals -- Scope of review.

- (1) A person may appeal a final action or order of the commission to the Court of Appeals for review.
- (2) A person shall file a notice of appeal within 30 days of the issuance of the final action or order of the commission.
- (3) The Court of Appeals shall base its review on the record of the commission and for the purpose of determining if the commission has abused its discretion or exceeded its authority.

Enacted by Chapter 366, 2014 General Session

Part 5 Miscellaneous Provisions

17-30a-501 Title.

This part is known as "Miscellaneous Provisions."

Enacted by Chapter 366, 2014 General Session

17-30a-502 More than one chief deputy in larger county departments.

The sheriff, with the consent of the commission and the county legislative body, may appoint more than one chief deputy, deputy chief, or undersheriff.

Enacted by Chapter 366, 2014 General Session